

PROPOSED CHARGING LETTER

Mr. Paul Nakkashian
Chief Executive Officer
Air Shunt Instruments, Inc.
9101 Winneka Avenue
Chatsworth, CA 91311

Re: Investigation of Air Shunt Instruments, Inc. Regarding Potential Violations
of the Arms Export Control Act and the International Traffic in Arms Regulations

Dear Mr. Nakkashian:

The Department of State ("Department") charges Air Shunt Instruments, Inc. ("Respondent") with violations of the Arms Export Control Act, 22 U.S.C. 2778 (the "AECA"), and the International Traffic in Arms Regulations, 22 C.F.R. Parts 120-130 ("ITAR") in connection with the unauthorized export of defense articles, and the misrepresentation and omission of material facts on an export control document. Four violations are alleged at this time. The essential facts constituting the alleged violations are described herein. The Department reserves the right to amend this proposed charging letter, which may include specifying additional violations in these matters. Please be advised that this proposed charging letter provides notice of our intent to impose debarment and/or civil penalties in accordance with § 128.3 of the ITAR.

The Respondent did not submit a Voluntary Disclosure in accordance with § 127.12 of the ITAR. The Department became aware of the issues only after an Information was filed in federal court charging Respondent with an AECA violation. Respondent has undertaken remedial compliance measures. The Department considered the Respondent's remedial compliance measures as a mitigating factor when determining the charges to pursue in this matter. However, given the national security and foreign policy interests involved, the Department has decided to charge the Respondent with four violations at this time. We note that had the Department not taken into consideration the Respondent's remedial compliance measures as a mitigating factor, the Department would have charged the Respondent with additional violations. In the absence of such action, charges against and penalties imposed upon the Respondent would likely be more significant.

BACKGROUND

Respondent is in the business of selling genuine replacement parts to the Department of Defense and the aerospace industry. Many of the parts procured and sold by Respondent are military parts covered by the United States Munitions List ("USML"). For those parts covered by the USML, Respondent was required to obtain an authorization from the Department before any such USML part could be exported from the United States.

Respondent's Vice President was responsible for international sales, determining the export control jurisdiction of parts sold, and obtaining all required authorizations for such sales. This Vice President knew that it was illegal to export defense articles covered by the USML from the United States without first obtaining an export license from the Department. However, from September 2003 until January 2004, he arranged several foreign sales without obtaining the proper approvals prior to exporting. At the time, Respondent did not have sufficient policies and procedures and oversight concerning export compliance to provide an effective check over its Vice President in his decisions about export sales.

As a consequence of these serious weaknesses in Respondent's compliance procedures, on May 29, 2003, Respondent exported without authorization a J85-GE-21B engine actuator to Dubai, United Arab Emirates. Further, on September 18, 2003, Respondent exported without authorization a J85-GE-21B engine ignition exciter to Dubai, United Arab Emirates. In addition, on November 26, 2003, Respondent attempted to export without authorization a gyroscope (manufactured by another U.S. company) to Bangkok, Thailand.

Additionally, during the time period referenced above Respondent made misrepresentations and omissions on several occasions in export control documents. For example, on September 2, 2003, a request for quote ("RFQ") was faxed to defendant from Bangkok, Thailand from a company purporting to be operating under the name "Southeast Asia Aeronautics and Engineering" ("SAAE"). The RFQ was purportedly sent by "Mohammad Bin Nasser." The RFQ requested information regarding the cost of purchasing parts for military aircraft, namely a gyroscope. On September 5, 2003, Respondent faxed a quote to SAAE in Thailand indicating that the purchase price for the gyroscope was \$15,000. The quote also indicated that the purchaser, namely SAAE, was responsible for obtaining any necessary export license.

On October 1, 2003, a price negotiation letter was faxed from SAAE to Respondent which requested a reduction in the purchase price for the gyroscope. On October 2, 2003, Respondent faxed a new price quote to SAAE, in which the price for the purchase of the gyroscope was reduced to \$14,850. The new price quote contained the same language indicating that it was the responsibility of the purchaser to obtain an export license.

On November 12, 2003, Respondent received a faxed purchase order from SAAE to Respondent for the purchase of the gyroscope. In the purchase order, Respondent was instructed to ship the parts to Thailand using a freight forwarder located in San Diego, California. On November 14, 2003, Respondent faxed a pro forma invoice to SAAE in Thailand, which set forth the cost of purchasing and shipping the gyroscope and payment instructions.

On December 3, 2003, Respondent sent the gyroscope to the freight forwarder in San Diego, California for shipment to Thailand. Among the documents located in the packaging for the gyroscope was a packing slip which indicated that the gyroscope was to be shipped to SAAE in Bangkok, Thailand.

In addition, along with the package, Respondent was required to fill out properly and accurately a Shipper's Export Declaration ("SED"). However, Respondent typed "NLR" in the SED which was understood to mean "No License Required."

Respondent has since adopted standards of conduct and internal control systems that are aimed at preventing or eliminating such violations in the future. Respondent has also instituted new review and control procedures and ethics training programs designed to prevent or detect any violations.

JURISDICTION

Respondent is a corporation organized under the laws of the State of California.

Respondent is a U.S. person within the meaning of the AECA and the ITAR and is subject to the jurisdiction of the United States.

During the period covered by the violations set forth herein, Respondent was engaged in the export of defense articles and was registered as an exporter with the

Department of State, Directorate of Defense Trade Controls (“DDTC”) in accordance with Section 38 of the AECA and § 122.1 of the ITAR.

The defense articles associated with the violations outlined below are designated as controlled under Category VIII of the U.S. Munitions List (“USML”), § 122.1 of the ITAR.

RELEVANT ITAR REQUIREMENTS

Part 121 of the ITAR contains the USML, which identifies the items that are defense articles, technical data, and defense services pursuant to section 38 of the AECA.

Section 123.1(a) provides that any person who intends to export or to import temporarily a defense article must obtain the approval of the Directorate of Defense Trade Controls prior to the export or temporary import, unless the export or temporary import qualifies for an exemption under the provisions of this subchapter. Section 127.1(a)(1) of the ITAR provides that it is unlawful to export or attempt to export from the United States, or to reexport or retransfer or attempt to reexport or retransfer from one foreign destination to another foreign destination by a U.S. person of any defense article or technical data or to furnish any defense service for which a license or written approval is required by the ITAR without first obtaining the required license or written approval from DDTC.

Section 127.2(a) of the ITAR provides that it is unlawful to use any export or temporary import control document containing a false statement or misrepresenting or omitting a material fact for the purpose of exporting any defense article or technical data or furnishing of any defense service for which a license or approval is required by the ITAR. Section 127.2(b) of the ITAR provides that an SED is an export or temporary import control document.

CHARGES

Charges 1-3 – Unauthorized Export of Defense Articles

Respondent violated section 127.1(a)(1) of the ITAR when it exported without the appropriate authorizations from the Department a J85-GE-21B engine actuator to Dubai, United Arab Emirates; a J85-GE-21B engine ignition exciter to Dubai, United Arab Emirates; and when it attempted to export without the appropriate authorization a gyroscope to Bangkok, Thailand.

Charge 4 – Misrepresentation and Omission of Facts

Respondent violated section 127.2(a) of the ITAR when it used an export control document containing a misrepresentation and omission of fact for the purpose of exporting a defense article.

ADMINISTRATIVE PROCEEDINGS

Pursuant to Part 128 of the ITAR, administrative proceedings are instituted by means of a charging letter against Respondent for the purpose of obtaining an Order imposing civil administrative sanctions. The Order issued may include an appropriate period of debarment, which shall generally be for a period of three years, but in any event will continue until an application for reinstatement is submitted and approved. Civil penalties, not to exceed \$500,000 per violation, may be imposed as well in accordance with section 38(e) of the AECA and § 127.10 of the ITAR.

A Respondent has certain rights in such proceedings as described in Part 128 of the ITAR. Currently, this is a proposed charging letter. However, in the event that you are served with a charging letter, you are advised of the following matters: You are required to answer the charging letter within 30 days after service. If you fail to answer the charging letter, your failure to answer will be taken as an admission of the truth of the charges. You are entitled to an oral hearing, if a written demand for one is filed with the answer, or within seven (7) days after service of the answer. You may, if so desired, be represented by counsel of your choosing.

Additionally, in the event that you are served with a charging letter, your answer, written demand for oral hearing (if any) and supporting evidence required by § 128.5(b) of the ITAR, shall be in duplicate and mailed to the administrative law judge designated by the Department to hear the case. These documents should be mailed to the administrative law judge at the following address: USCG, Office of Administrative Law Judges G-CJ, 2100 Second Street, SW Room 6302, Washington, D.C. 20593. A copy shall be simultaneously mailed to the Director of the Office of Defense Trade Controls Compliance, Bureau of Political Military Affairs, U.S. Department of State, PM/DDTC, SA-1, 12th Floor, Washington, D.C. 20522-0112. If you do not demand an oral hearing, you must transmit within seven (7) days after the service of your answer, the original or photocopies of all

correspondence, papers, records, affidavits, and other documentary or written evidence having any bearing upon or connection with the matters in issue.

Please be advised also that charging letters may be amended from time to time, upon reasonable notice. Furthermore, pursuant to § 128.11 of the ITAR, cases may be settled through consent agreements, including after service of a proposed charging letter.

Be advised that the U.S. government is free to pursue civil, administrative, and/or criminal enforcement for violations of the AECA and the ITAR. The Department of State's decision to pursue one type of enforcement action does not preclude it, or any other department or agency, from pursuing another type of enforcement action.

Sincerely,

Daniel J. Buzby
Acting Director
Office of Defense Trade Controls Compliance